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ABSTRACT

This seminar report focuses on school legislation reforms in Central and Eastern Europe. The seminar was part of the "Secondary Education for Europe" project. The aims of the seminar included: (1) to outline legislative reforms concerning the school systems in Central and Eastern countries; (2) to highlight questions; and (3) to compare possible solutions by taking into account Western European experiences. The first of five parts is the introduction. Part 2, "School Legislation Reform," contains the following sections: (1) Typology of legislative measures in education; (2) The functions of legislation in education; (3) The education law in the context of educational reform; and (4) Legislative changes in Central and Eastern Europe. Part 3, "Specific Problems," focuses on: (1) Centralization and decentralization of education; (2) Private education; and (3) The rights of minorities. Part 4 stresses "Educational Reforms: Strategies, Implementation and Evaluation." Part 5 offers "Conclusions and Recommendations." Appendix 1 contains the seminar program while Appendix 2 contains a list of participants to the conference. (EH)

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School legislation: Dialogue on the reforms in Central and Eastern europe

Brussels, 13-15 December 1993

Report of the Seminar

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COUNCIL FOR CULTURAL CO-OPERATION (CDCC)

A SECONDARY EDUCATION FOR EUROPE

Seminar on

"School legislation: dialogue on the reforms in Central and Eastern Europe"

Brussels, 13-15 December 1993

General Report

by

Dr César BIRZEA
Director of the Institute
of Educational Science

SUMMARY

I. INTRODUCTION 1

II. SCHOOL LEGISLATION REFORM 2

2.1 Typology of legislative measures in education 2

2.2 The functions of legislation in education 6

2.3 The education law in the context of educational reform 8

2.4 Legislative changes in Central and Eastern Europe 9

III. SPECIFIC PROBLEMS 10

3.1 Centralisation and decentralisation of education 10

3.2 Private education 13

3.3 The rights of minorities 15

IV. EDUCATIONAL REFORMS: STRATEGIES, IMPLEMENTATION AND EVALUATION 16

V. CONCLUSIONS AND RECOMMENDATIONS 18

APPENDIX I: Seminar programme 20
APPENDIX II: List of participants 22

I. . INTRODUCTION

Organised jointly by the Council of Europe and the Belgian French Community, the seminar on "**School legislation: dialogue on reforms in Central and Eastern Europe**" was held in Brussels on 13-15 December 1993.

The seminar followed on from the symposium held in Bialobrzegi (Poland) on the subject of: "Democratisation and reform of secondary education in Central and Eastern Europe" (12-14 November 1992) and formed part of the "Secondary education for Europe" project.

The aims of the seminar were:

a) to outline legislative reforms concerning the school systems in Central and Eastern countries;

b) to highlight questions and problems;

c) to compare possible solutions by taking into account Western European experiences.

Three factors made a special contribution to the success of the seminar:

a) **the issues**: this was the first seminar of this importance to be devoted to legislative reforms in the countries in transition;

b) **the participants**: they were experts representing a considerable number of European countries and providing a wide range of experience and ideas concerning educational reform;

c) **the organisational arrangements**: the seminar was prepared during the two meetings in Strasbourg which preceded it; on one hand, this permitted a more precise definition of the problematic and, on the other, it enabled a core of experts to be set up, who pooled their thoughts well in advance of the Brussels meeting, with the result that the meeting was able to begin in the best possible conditions, without, any necessary conjecturing.

The organisation of the seminar was such that the participants were able to examine the most relevant technical aspects of school legislation as well as express their points of view and describe their experience. Moreover, they gave a presentation of the specific problems of the countries they represented.

The official opening was followed by a report on the social and political context of school legislation reforms. A choice between two panels was then offered to the participants. Experts from Belgium, Poland, Romania and Russia presented case studies in the one panel, while the other panel's case studies concerned Germany, Bulgaria, Spain and Hungary. Thereafter the working groups proved to be an excellent forum for discussing the specific themes regarded as priorities in the educational policies of the countries represented.

The participants then came together again in a plenary session where they considered the reports of the various working groups and heard a report on the initiation, implementation and monitoring of reforms, a question of particular interest to the Central and Eastern European countries. The subject was then discussed in two working groups set up for the purpose.

It was thus possible to provide multiple opportunities for dialogue and deal with a considerable number of themes which were both varied and specific.

The seminar focussed on three main aspects:

- school legislation reforms in various European countries;
- priorities in educational reform, especially in the countries in transition
- mechanisms permitting the implementation of educa-tional reforms.

The present report will deal with each of these aspects in turn.

II. SCHOOL LEGISLATION REFORMS

The seminar demonstrated the obvious fact that any discussion concerning legislative reforms in the sphere of education has a particularly widespread significance. On the one hand, it is a question of the broad process of learning democracy which is taking place in the Eastern and Central European countries; we all know that this process calls for new legislative instruments and appropriate legal expertise. On the other hand, it is a question of whether the legislative framework has become sufficiently varied and flexible to deal with the fairly frequent changes in the sphere of education. In the last resort, all innovation in education, all specific changes (not to mention the radical reforms taking place in some of the new democracies), must be backed up by appropriate legislative measures.

2.1 Typology of legislative measures in education

School legislation consists of a very broad range of legal regulations and texts, each of which has its own specific aims and contents.

The first distinction to be made in this context is between legal texts originating in the **legislature** (Parliament) and those drawn up by the **executive** (Government, Council of Ministers, Ministries).

As far as the law is concerned, whatever its variants (constitutional law, outline or special law), it remains the responsibility of the **legislature.**

a) The legal framework

The Constitution or **fundamental law** is the body of legal rules regulating the relationship between the government and the governed. It stipulates rights, liberties and fundamental duties, social norms and values, the way in which society is organised, the relationship between the powers, the fundamental institutions, etc.

In all European countries, the constitution includes one or several articles relating to education. As a general rule, the constitutional arrangements reflect two fundamental principles:

- the right to education without any discrimination;
- the freedom of pupils.

On the basis of these two principles, the various democratic constitutions establish the organisational framework and determine general thrust of educational systems. Outline laws as well as specific laws relating to education are responsible for dealing with any special aspects. To take an immediate example, article 27 of the 1978 Spanish Constitution provides for:

- the right to education, the free and compulsory nature of basic education; the responsibility of the public authorities for the planning of general curricula and for the inspection and approval of the education system; the right to religious education, the autonomy of teaching establishments;

- other rights affecting education - academic freedom, ideological and religious freedom, the right to culture, the rights of children, the rights of persons with specific needs;

- the principle of decentralisation of administration within the Autonomous Communities.

Similar guarantees can be found in the constitutions of the post-totalitarian countries. This is the case with Romania, amongst others. Article 32 of the 1991, Romanian Constitution guarantees the right to education and to the specific liberties which derive therefrom: an open legislative framework in education; teaching in the language of minorities in the areas of multi-ethnic cohabitation along with teaching in Romanian; free state education; autonomous universities; freedom of religious education.

It should also be noted that the transition from dictatorship to democracy began, formally, with the setting up of the new constitutions and the creation of a **constitutional system.** These constitutional reforms, aimed at replacing the State-Party by the rule of law ended in 1991 or, as in the former Soviet Republics, in 1993.

b) The outline law

The Outline Law **on Education** stipulates the general objectives which serve as a framework for administrative decrees. In fact, what is usually referred to as the education "law" is basically an outline law accompanied by special laws and decrees enabling its implementation.

The outline law contains general clauses concerning the objectives of education, the structures, the types of educational institution, legal conditions for the admission and certification of studies, financial responsibilities, the management of education, the rights of minorities, the rights and obligations of teachers, etc. In the Russian Federation, for example, the education law adopted in 1992 consists of six parts:

- **general measures relating to educational policy**: the overall legislative framework; relations with other normative bills; rights and liberties in the sphere of education; the languages to be used in teaching; the spheres of competence concerning education at the level of the federation, the republics and the autonomous regions;

- **the description of the educational system**: structures, curricula, assessment; types of diploma and types of establishments; terms and conditions for setting up and closing down educational institutions;

- **the management of the educational system**: the scope of the various administrative structures; terms and conditions for the control, assessment and approval of educational institutions; quality control in education;

- **economic aspects**: ownership of school premises, infrastructure and educational facilities; the financing of education; school endowments; extra-budgetary contributions; relations with firms;

- **social security in education**: medical insurance, social security; the protection of teaching work; the payment of teaching personnel; the social guarantees and specific rights of teaching personnel; relations with trade unions;

- **international co-operation**.

Generally speaking, an outline law is an **institutional law**. In contrast with ordinary laws, an outline law is approved by a majority in each parliamentary of the chambers. It goes without saying that the status accorded by this dual approval ensures a certain degree of stability for the law. It is also the case that the preparation of this type of law takes more effort. Amongst other factors, it will be noted that the perfecting of an institutional law demands a minimum of political consensus which it is not easy to attain in view the complexity of problems in education. Moreover, it should be borne in mind that the majority of Western educational systems function on the basis of school legislation adopted in the 1970s and 1980s. However, during the four post-totalitarian transition years, the Eastern and Central European countries have undergone much more frequent legislative changes.

This dynamic element of legislation in the sphere of education can be explained, on the one hand, by the urgent need for educational reform and, on the other, by the fluidity of the social and political context. Let us take, for example, the case of **Lithuania**, where, immediately after the dissolution of the Soviet Union, in 1991, a new law on education was adopted which stressed national culture and identity. At the moment, this law is already being subjected to amendments. In **Latvia** the 1989 outline law had the same aim: the renaissance of the national culture and language. At a later date, the requirements of the country imposed

rules relating to other dimensions of education. In **Albania**, characteristically, the post-communist break was immediately followed by a new law on education; the latter is already being revised and adapted to the more recent developments.

c) Special laws

These are laws aimed at dealing with specific problems: private schools, vocational training, the rights of minorities, the status of teaching personnel, university education. Generally speaking, it can be observed that special laws are intended to complement the outline law. This is the case in **Belgium**, in **Finland**, **Slovenia, France** and **Italy.** In some cases, the law is accompanied by several institutional laws without any recourse to special laws. This is the case in **Spain**, where the 1978 Constitution was followed by three institutional laws dealing with education (the 11/1983 law on university education, the 8/1985 law on the right to education and the 1/1990 law on the general organisation of the education system).

There are cases where a special law is voted before the outline law has been published. The 88/1993 law on the accrediting and assessing of higher education establishments in **Romania** is an excellent example. This special law was voted in an emergency before the orientation law on education. The fact was that, after the sudden changes in December 1989 in the wake of, to social pressures and the weakening of central control, unco-ordinated development occurred in the private sector of higher education, with considerable repercussions on the quality of the service provided.

A question of very special concern to legislative authorities in the countries in transition relates to the **conditions of employment of the teaching personnel**. In **Russia**, these conditions are stipulated in the outline law where they constitute a separate chapter. In **Romania**, the conditions of employment of the teaching staff are contained in an appendix to the outline law, which grants them the same legislative status (this is challenged by the trade unions who, for their part, consider that this is a restriction on their powers). In **Poland**, a special law dealing with the problems of teaching staff is being drawn up which will replace the old "Teaching Charter", which has been in force since 1981. The teachers' union (one of the three most powerful branches of "Solidarnosc") is very active in this respect.

Although it is difficult to find an ideal formula, the question remains open: should the conditions of employment of teaching staff be the subject of a special law or should they be left entirety to teachers' trade unions?

We have just referred to the legal instruments which are the responsibility of legislative authorities.

It is useful to bear in mind that, apart from these instruments, there are a considerable number of normative acts which are the responsibility of the **executive authorities**: decrees, orders, rulings. This makes the legislative framework more complex - a question to which the participants in the Brussels seminar turned their attention.

As a general rule, the validity of legal instruments of this type is limited in duration. Their utility lies in guaranteeing the implementation of general clauses contained in the laws which originate in the legislative sphere.

Thus laws and the provisions dealing with their application are likely to form a set of coherent measures which can be easily incorporated into the system of educational administration. In **Bulgaria**, for example, the 1991 Constitution was followed in the same year by an outline law on the educational system, which in turn was supplemented by a set of implementing measures (1992) and decrees aimed at specific problems: admission to vocational schools (1992), the supervision of teaching establishments (1992), etc.

2.2 The functions of legislation in education

Educational systems are the biggest employers in a country. They use up approximately one-third of a society's resources and, to a large extent, determine the cultural identity of each nation as well as its social mobility and its capacity for competitive economic development. This huge undertaking demands its own legislation which regulates its internal relations as well as its relations with the other sectors of society as a whole.

For this reason, legislation relating to education is, admittedly, extremely varied and complex. It fulfills functions which are specific to it.

a) The public function

All legislation is dependent on the political configuration of the parliament, the electorate's choices and the priorities fixed by the government's programme. Even if, as a general rule, an attempt is made to restrict the politicisation of school legislation, the influence of parliament's ideological choices is inevitable. In this respect, reference is often made to the **Education Reform Act** (1988) in Great Britain which, along with the trends towards to privatisation in the economy and the reforming of the welfare state, is the most direct expression of 'Thatcherism' and of Conservative philosophy in education.

b) The normative function

The legislative documents examined above include, in the first instance, legal norms and rules. The latter regulate relations between peoples and institutions, establish freedoms and restrictions, and define administrative and financial responsibilities. In short, they confer legal rationality on all teaching activity by setting it in the normative conditions of the constitutional system of the legal State.

Here, for example, is a list of the kinds of problems which the outline law on education is expected upon to settle in **Germany**, according to a jurist who participated in the Brussels seminar:

- types of educational institution: designations, functions, admission conditions, age-limits;
- the certification of courses and access to the various cycles: types of diploma and the rights they confer, methods of selection;

- special education: types of institution, categories of children with special needs, appropriate curricula, teaching staff;
- financial responsibility: responsibility for payment of salaries, maintenance of buildings and provision of school equipment; investment;
- specialised administrative services;
- the responsibilities of teachers, the parents' associations and school principals;
- the rights of parents;
- the rights of pupils and students as well as their delegates;
- compulsory schooling: length, age-limits, respect for the principle of education for all;
- the limits and the conditions of sexual education in schools;
- the rights of private schools and the question of subsidies.

To this list of problems for which German school legislation is expected to be responsible, other participants added:

- the distribution of administrative power between the top and the bottom of the system;
- the organisation of the school system and the structural autonomy of establishments;
- relations with local firms and communities;
- the rights of minorities;
- responsibility in curricular matters;
- control of the quality of education.

c) The communicative function

The norms are communicated to the various social groups concerned so as to establish a common normative language. School legislation thus constitutes a sort of system of communication of shared codes and references capable of ensuring the coherence of educational arrangements and administrative approaches at different levels: central, regional, and local.

d) The institutional function

In the last analysis, the law's provisions result in the creation of certain educational institutions: formal or informal, public or private, conventional or alternative. Some of these institutions are referred to by name in the text of the law; others are created or abolished as an indirect consequence of the change in the legal framework. Whatever the case, legislative reforms affecting schools always have a direct or indirect institutional impact.

e) The function of integration

Legislative changes are indeed aimed at resolving internal problems whose complexity may vary from one country to the other. But their function is wider. National legislation is increasingly taking into consideration international trends and orientations concerning training, school structures, curricula, diplomas and requirements for professionalisation of teaching staff. This is a reflection of the migratory flows which characterize the second half and, in particular, the end of this eventful century. It is also a sign of the political developments which marked the last few years.

This phenomenon is not confined to the European Union's member countries, where the free movement of workers and freedom of establishement as well as of provision of services has already had an impact on national school legislation (it should be borne in mind, in this respect, that article 128 of the European Community Treaty and the Community Charter of the Fundamental Social Rights of workers adopted by the European Council in December 1989, provide for a common policy in vocational training). Making to national educational systems accessible to foreign nationals and ensuring the recognition and reciprocal equivalence of diplomas are also current concerns in the Central and Eastern European countries which have just undergone or are at present undergoing a legislative reform.

2.3 The education law in the context of educational reform

To grasp the significance of a legislative text, it is necessary to set it in a broader political, social, legal and cultural context. This could be the subject of a **specialised** study aimed at decoding - beyond specifically legal message - each society's and norms, political choices and cultural conditions, public expectations and educational goals, specific problems and constraints. In short, school legislation should enable us to perceive the objectives and priorities of the **educational policy** carried out in a particular country.

In this context, the Brussels seminar broached the important question of the **relationship between the law and educational reform**. Here, there seemed to be two different schools of thought among the participants, depending on the cultural traditions and administrative structures of their countries. For the majority, the new legislation should be the culmination of a process of reform, as a synthesis and legitimation of a series of changes already under way. For others, educational reform should begin with a new law capable of imposing the innovations included in the reform project. In this case, the authority of the law ought to facilitate the implementation of measures which are more radical, less popular or simply insufficiently understood by those concerned as a whole. This would correspond primarily to the "big bang" strategy of radical reform imposed from above.

In the more or less "revolutionary" conditions of the post-totalitarian transitional period, the second solution has usually been preferred. Parallel, or almost parallel, to the drawing up of a new constitution, the most pressing institutional laws, including the orientation law for schools, have been put in hand. In the process it was often perceived that reality had overtaken the new school legislation, with the result that new laws were introduced, unless the legislation in force was amended. Thus the education law in **Czechoslovakia** (1990) will almost definitely be replaced, after the "friendly divorce" at the beginning of 1993, by separate laws valid for the **Czech Republic** and the **Slovak Republic.** Similarly, it is expected that the education law in the **Russian Federation** (1992) will be challenged by the new parliament elected at the end of 1993. Moreover, in **Ukraine** and **Belarus** there will be parliamentary elections in 1994 which will definitely have an impact on the school legislation approved by the former parliament.

There are, however, cases where the pace of events exceeds the tempo of legislative reform. In **Hungary** and in **Romania**, for example, the drawing up of the new school legislation has been slower than in other countries, and the actual changes have sometimes preceded the legislative process.

In all cases, it is clear that educational reform is not restricted to voting a new outline law. Educational reform is a long-term process of restructuring and innovation which can bring about several changes in educational legislation. School reform is spread over several generations and affects all levels of the educational system. As far as the education law is concerned, it is only an instrument which, although indeed essential, can in no way take the place of actual reform.

2.4 Legislative changes in Central and Eastern Europe

Despite some differences, post-totalitarian transitions all start from the same position, characterised by a **break in legislation**. In actual fact, immediately after the first free elections since Yalta and the setting up of new legislative authorities, new constitutions have been adopted and new statutory educational arrangements implemented.

These legislative changes have not followed the same trend in all the Central and Eastern European countries because experiences, priorities and conditions differed. It is not too unrealistic to illustrate these by means of three models:

a) **The legislative transfer** in the case of the former GDR. Under the 31 August 1990 Unification Treaty ("Einigungsvertrag"), the democratic legislation and constitutional structures of Federal Germany were extended to the new "Länder". As far as education was concerned, the principle of the responsibility of the "Länder" and the education system in West Germany were universalised regardless of the differences, which were considerable (amongst others, we could refer to the incompatibility of the tripartite system in Federal Germany with the polytechnic education in the former GDR).

b) **The negation of the former legal system** and the adoption of new school legislation in keeping with post-totalitarian conditions. However, one factor has to be mentioned: some countries, including **Poland** and **Hungary**, pursued reforms which had been begun in 1970-80. In these cases, the new legislation (the 1991 Education Act in **Poland** and the 1993 one in **Hungary**) stress some of the former experiments (in particular, the decentralisation of education triggered off by the 1978 and 1985 laws in **Hungary** and the 1986 Education Act in **Poland**). Other countries, including **Romania**, **Czechoslovakia, Bulgaria and Albania**, started from completely new premisses, and there the break with the old legislative system has been total with the result that the respective education acts have had to take into consideration the discontinuity and correction of the effects induced by the former laws.

c) **The definition of a new constitutional system and the related legislation**. In the new States which have emerged since the disappearance of the federations and communist unions (**USSR, Yugoslavia**), it is not a question of a mere administrative or legal adjustment. Here we are dealing with a change in paradigm, and the emergence of an educational policy which has no relation to the preceding one. Thus, in **Ukraine**, the move from an educational system at "republic" level (as an integral part of the Union) to a "national" educational system has involved an instantanlous series of legislative measures, including the new education act unanimously approved on 25 June 1991 by the Ukraine Supreme Soviet. Although this law has not led to any genuine restructuring of education, it has established a new administrative system

whose decision-making centre is the responsible national ministry.

III. SPECIFIC PROBLEMS

The participants in the Brussels seminar also considered various specific questions. These came to light, in particular, during the case studies and in the working groups. We think it is important to refer to some of them: the relationship between the public and the private sector, the sharing of administrative responsibility, the rights of minorities, the status of the teaching profession, the financing of education, the impact of legislation on curricula (and on policies concerning school textbooks), the formal links between vocational training and firms.

These are all priorities to which the legislative reforms attempt to find appropriate solutions.

Three questions were at the centre of the discussions in the working groups: centralisation or decentralisation, the private sector and the rights of minorities.

3.1 Centralisation and decentralisation of education

This question is effectively the focus of discussions throughout Europe, whether it be in the West, the Centre or the East of the continent. There is therefore nothing surprising about its appearance in the work of the Brussels seminar.

From the outset, we stressed that, more than anything else, the discussion on the topic of **centralisation and decentralisation** includes a political issue relating to a wider choice between **liberalism or statism.** This choice can be seen in the type of educational established envisaged:

a) On one hand, on the basis of an **entrepreneurial model**, the school establishment is seen as a firm capable of ensuring the quality of its products without external help. This conviction underlies the choice which gives preference to the policy of privatisation, decentralisation and competition.

In this neo-liberal approach, the educational establishment is conceived of as **one of the segments of a market for social goods**. The British educational policy provides an excellent example (cf. the 1988 Education Reform Act), so does - and this may seem surprising - the 1985 **Hungarian** law on education, whose over-emphasis on decentralisation has been attenuated by the 1993 law on education.

b) On the other hand, the educational establishment is considered to be a **social service**, the State being, in this approach, the main guarantor and administrator of national education. This is the dominant model in Europe; it is founded on principles of equality of opportunity, education for all and universal schooling. The school is perceived primarily as a public institution accessible to all, and the State is legally responsible for its management. This policy is opposed to segregation and unregulated competition; it aims at protecting the rights of the individual and at conserving state responsibility in the financing, organisation and control of educational services.

However, the problem which arises is that the traditional conception of the **State** differs considerably from one country to another, in the same way as centralisation assumes special importance for the highly decentralised states in the West, such as the **United States, Canada, Great Britain, Germany and Switzerland**, whereas the post-totalitarian Central and Eastern European countries usually confer a different meaning on it. In the experience of the first groups of countries referred to, the educational systems are highly decentralised, the federal ministries tending to fulfil a symbolic function. This is not the case in the countries in transition. These have inherited a rigid administrative system which is over-hierarchical and within which the central authorities possess the majority of prerogatives in decision-making.

This means that the same terms, **decentralisation** and **centralisation**, refer to different realities, which are at times diametrically opposed, depending on the frame of reference specific to each education system.

Choosing between the liberal or the state model is not simple. In this sphere, as in many others, **there are no ready- made models** which can be transferred to the new democracies. The situations are so varied and depend so heavily on the political and social context that it is difficult to draw general conclusions applicable to all the cases envisaged.

Nevertheless, we have to introduce a classification, indeed the only one which appears relevant to us given as it takes into consideration the **configuration of administrative powers in education**. This classification is made with the usual reservations, because it simplifies the variety of the contexts in two different ways:

In the first instance, it describes as "centralised" or "decentralised" an education system in its entirety, whereas in reality the two tendencies are only valid for certain levels of the system.

Secondly, it puts all the European countries together, even though a decentralisation policy assumes, as we have just seen, one meaning in an authoritarian system and a different one in a moderate state system (and, a fortiori, in a liberal system).

Having stated these reserves, we can posit three main categories:

a) **centralised education systems**
(Albania, Belarus, Bulgaria, Croatia, Estonia, Ireland, Italy, Latvia, Lithuania, Moldova, the Netherlands, Portugal, Czech Republic, Romania, Slovenia, Turkey, Ukraine);

b) **decentralised education systems**
(Germany, Belgium, Denmark, Great Britain, Greece, Luxembourg, Hungary, Norway, Sweden, Switzerland);

c) **decentralising education systems**
(Austria, Spain, Finland, France, Poland, Russia, Czech Republic).

In the **centralised systems**, most of the administrative and financial powers are concentrated in the State: the distribution of resources, decisions concerning the training and recruiting of teaching staff, the opening and closing down of schools, the design of curricula, the organisation of examinations, the award of diplomas, financial control. The degree of state concentration in decision-making varies from one country to another. However, it is to be noted that, as a general rule, most decision-making powers are concentrated in ministries.

Within what we might refer to as the non-homogeneous group of "centralised systems" there is clear evidence of a trend towards the relaxation and diversification of central control. In this respect, **devolution** is an interesting strategy: lying half-way between centralisation and decentralisation properly speaking, it consists in transferring some administrative and management powers from the centre to regional and local authorities (school inspectorates, municipalities, school divisions, school managements). Some countries in transition are already applying this strategy of devolution. In particular, this is the case with the **Czech Republic**. Since the introduction of law N° 564 of 13 December 1990, administrative power has gradually been transferred from the Ministry of Education to regional authorities (school inspectorate bureaux) and to local authorities (town councils and school principals). However, only the central body has the power to issue rules applicable country-wide.

In **Romania** and **Bulgaria**, the key option gives preference to the sáme policy of devolution, also supported by new school legislation. However, it should be noted that the implementation of this policy in Romania's 41 and Bulgaria's 28 school inspectorate departments is hindered by the absence of appropriate measures in local government legislation.

The decentralised systems are not opposed to the idea of the state being the guarantor of the educational services. In contrast with the centralised systems, the term "State" in the decentralised systems no longer refers to the national federal authority, but to the autonomous regional units of education as a whole. This is the case with the "Länder" in **Germany**, the cantons and regions in **Switzerland**, the counties in **Hungary**, the counties and local authorities in **Norway**, the provinces and communes in **Belgium**, and the counties in **Great Britain.** In **Hungary**, for example, inspectorate functions have been transferred to the National Education Institutes following the implementation of the 1985 law. The result is that primary and secondary schools come directly under the regional authorities. The education law in force since July 1993 is, however, aimed at "centralising" and at "restoring the balance" in the distribution of administrative powers. It now appears certain that the Ministry of Education will draw up the educational policy and global strategy without exercising the slightest right of supervision over schools in return. This right now lies with the Regional Centres for Education, which represent the state administration at regional level. As far as curriculum planning powers are concerned - a question which is the subject of a lively debate in **Hungary** - they are vested in the National Education Institutes. School councils thus have to deal with the Education Institutes in curricular matters. There is, of course, a **naticnal curriculum** which, by means of a centralised examination system, ensures the necessary equivalences and overall functional coherence.

In any event, it is important to bear in mind that in **Hungary** the central authority no longer has occasion to intervene directly in schools of whatever type or grade.

The decentralising systems are transferring most State responsibilities to subordinate units. It is not a question here of cantons or "Länder" which are totally autonomous as regards education. We are concerned with intermediate or local administrative divisions which are granted greater responsibility in the management of education. These units still come under the central administration, but they are governed by elected bodies: councils, assemblies, boards, committees. This is the case with the Autonomous Communities in **Spain**, the regions, "départements" and communes in **France,** the provinces and local authorities in **Austria**, the local authorities in **Finland**, the voivodships in **Poland**, and so on.

Spain seems to be inclining towards limited decentralisation in seven Autonomous Communities endowed with administrative power in educational matters (the ten other Communities still come under the Ministry of Education in the context of a devoluted structure). The State retains its prerogatives by ensuring the unity and coherence of the education system at national level: the stipulation of conditions governing the award and approval of academic qualifications throughout the country; the length of studies; the establishment of educational cycles; conditions for admission to selective cycles; basic rules and criteria with which educational establishments must comply (teachers' academic qualifications, pupil/teacher ratios, buildings and facilities); minimum standards of academic attainement; the State school inspectorate; international co-operation.

The Autonomous Communities are responsible for managing the resources granted to them by the State (through the inter-territorial equalisation fund and their appropriate share of tax revenue). Each Autonomous Community has a Technical Inspectorate Service which assumes total responsibility for administration, finance and teaching with respect to schools in its area of jurisdiction. The degree of autonomy of regional structures vis-à-vis the central authorities is being negotiated. The overall impression is that the tendency in **Spain** is towards a gradual transfer of responsibilities to the regional communities.

3.2 Private education

The public/private relationship within the education system was another question keenly debated by the participants in the Brussels seminar.

To become a priority matter, private education must stress three of its advantages:

a) Its main characteristic is to **break the State monopoly** by diversifying the provision of education; the question arises mainly in Central and Eastern Europe, where educational policy was formerly based on the "single school/single book/single pupil triad". The forced march to homogenisation of people and institutions was one of the distinctive features of communist education, which was rejected in the early months of the post-totalitarian transition. Before 1989, **Poland** was the only communist country in Europe to have a private Catholic university and about ten denominational schools. After 1989, the rise of private education in Poland was spectacular: from 32 in 1989, the number of "social" or "communal schools" (other than Catholic schools) rose to 200 in 1990, and to 500 in 1991. In **Hungary,** in the 1992/93 school year,

there were 20 private schools and 58 denominational schools out of 3,712 general schools; during the same period, there were 15 private secondary schools and 33 denominational schools out of 820 secondary schools.

It is obvious that in the so-called monolithic education systems, until recently crushed by the State-Party monopoly, alternatives and private initiatives are gathering momentum. The same is true of denominational schools. In **Bulgaria**, to take another example, there were already 32 private schools in the 1992/93 school year. In the **Russian Federation** the new education law is particularly permissive with respect to "non-public schools": any individual, institution or private organisation has the right to open schools, albeit on condition that they observe certain minimum standards.

b) Private education is intended to be a direct expression of the **principle of liberty**, as guaranteed by all the European constitutions, and of the **spirit of initiative;** throughout Europe, the old convictions associated with State, non-denominational and egalitarian schools are being challenged (cf, in this respect, the heated discussions to which the amendment to the Falloux Law gave rise in **France**). Numerous parents complain that the State is heavy-handed in its management of education and would like their children's schooling to be organised differently while continuing to observe constitutional liberties.

On the other hand, the State is obliged to protect the individual, and ensure equality of rights in all spheres, including education. This is why, in the last resort, while the right of parents and communities to organise private schools is accepted, an examination system is set up which enables such schools to be recognised. It is wished to ensure that there is no discrimination and inequality between the private and the public sector in education. In **Switzerland**, for example, although the Federal Constitution stipulates that education is a local matter (ie a matter for the regions and cantons), academic certificates are awarded by the Federal Ministry of Education. Success in a qualifying examination is thus demanded in order to move from a private school to a State school. In **Germany**, the right to found private schools is guaranteed by the federal rules and regulations; however, for an establishment of this sort to function, a certificate of approval is demanded. To obtain it, the following conditions have to be met: proof that the qualifications of the teachers are comparable to those of the teachers working in State schools; guaranteeing of a regular contract and suitable payment for teachers in private schools; avoidance of any discrimination among pupils on the basis of their parents' incomes. Moreover, private schools are recognised as a sub-group within the national education systems, as a result of which the State grants subsidies and thus contributes to their financing.

To quote one of the participants, nowhere in the world is State education entirety free; nor is private education exclusively the responsibility of parents. Both involve recourse to mixed budgets, the amount of the various contributions varying from one country to another. Thus, in the **Slovak Republic**, the State covers 80% of the financing of the three denominational universities and the numerous private schools. In **Hungary**, the subsidies paid by the State to private schools cover 65% - 80% of the total costs (the rest comes from enrolment fees and the contributions of local authorities). In **Germany**, the State subsidises private schools: on average, the subsidies allocated to

a private school amount to 80% of the grants made to a public school.

c) **Alternative educational approaches** (Freinet, Montessori, Waldorf, Petersen) are, in a significant number of cases, the guiding principles of private schools. In **Slovenia, Croatia, Estonia, Lithuania** and the **Slovak Republic**, many private schools are set up on the initiative of groups of parents or teachers who, unhappy with traditional methods of teaching, have opted for another mode of school organisation and teaching based on the principles of a child's freedom and activity.

3.3 Rights of minorities

Today, the question of minorities is a matter for concern in all European countries. The Brussels seminar enabled two typical situations to be identified:

a) **The immigration process** gives rise to inevitable problems with respect to education. According to official statistics, immigrants comprise 8% of the general population of the European Union. In these circumstances, the host countries are obliged to define and implement integration policies. They are equally obliged to preserve cultures of origin. This has created a highly complex and delicate state of affairs to which several experts from **Germany, Great Britain, Belgium and Switzerland** referred.

b) On the other hand, in many European countries **several ethnic groups have to learn to live together in the same country**. In these circumstances, education often becomes one of the specific issues in political and inter-ethnic confrontations. There is therefore nothing unusual in the rights of minorities also being one of the most sensitive points in school legislation. The participants in the Brussels seminar, particularly those from Central and Eastern Europe, stressed this important aspect which, upon close inspection, may prove to be one of the key themes of new school legislation.

In the opinion of the participants, the **resurgence of nationalism** is one of the most worrying phenomena in the post-totalitarian countries, with multiple repercussions on educational policies. The revolutions which transformed Central and Eastern Europe have suddenly revealed a hidden truth, namely that the communist world was very far from being the model of all-embracing and peaceful fraternity that official propaganda would have us believe. The new geo-political configuration, characterised by the existence of new States, by singularly violent inter-ethnic conflicts and by territorial demands, may become even more complicated and ambiguous with the awakening of the perverse demons of extremism and ethnic nationalism. From this point of view, it is the former **Soviet Union** which presents the most worrying situation. It is well known that the splitting-up of this continental State, an artificial multinational fabrication based on ideological dogma, and the emergence of the new independent States rapidly re-opened old national quarrels which had been driven underground by the communist authorities for several decades. Moreover, the policy of denationalisation carried out by the Soviet authorities was so diabolical in terms of population movements that the ethnic configuration of the republics which are the heirs of the former Union is inextricably mixed, with the result that it is difficult to agree on the very concept of "minority". Let us take the example of **Ukraine**, where 130 minorities live together. These populations do not have the same weight: there is a considerable gap between the Russian

population, which ranks second with 12 million inhabitants, or 22% of the population of **Ukraine**, and the Jewish population which ranks third with 500,000 inhabitants. Moreover, the presence of a high proportion of Russian-speakers (22% of the population plus 12% of the Ukrainians who consider Russian as their natural language) creates the conditions for large-scale bilingualisme, not to mention the regions of Donbass, Donetsk, Luhansk and Crimea, where Russian is the language of instruction in more than 90% of primary and secondary schools. This tendency to bilingualism in schools is reinforced by the new legislation which permits a free choice of the language of instruction (cf. the **Declaration of the Rights of Nationalities**, approved on 1 November 1991, and the **National Minorities Law**, passed on 25 June 1992).

Some participants pointed to the importance of having a coherent policy on minorities so that could all problems be dealt with: political, cultural, linguistic, educational and social. Guaranteeing the right to set up schools where teaching is done in the mother tongue is a necessary, but not a sufficient, condition. At the same time, this right, which is secured within and for the benefit of schools, must be properly supported by other constitutional rights and guarantees.

In this context, it was noted that in many cases there was a divergence between constitutional texts, legislative texts (very liberal in their generous intentions) and the implementation thereof in everyday life. One should not therefore be content with the statutory enactment of this or that measure deemed suitable. In exchange, an effort should be to establish a **genuine civic culture** in the new democracies, which is now inconceivable without the provision of intercultural education. It is true, as the participants repeatedly stressed, that the Council of Europe makes an outstanding contribution in this respect. We only have to refer to its projects dealing with minorities and intercultural education. The project entitled "Democracy, Human Rights and Minorities: educational and cultural aspects" is but one example closely watching the expectations expressed by the new European democracies.

IV. EDUCATIONAL REFORMS: STRATEGIES, IMPLEMENTATION AND EVALUATION

It will readily be agreed that it is easier to plan an educational reform than to implement it. This truism is at present particularly applicable to the countries in transition. Plans exist that reflect the most noble intentions; however, their implementation is hindered by two stumbling blocks: the lack of financial resources and the absence of mechanisms capable of making the plans operational.

Before 1989, the drawing up, implementation and evaluation of reform programmes was the unchallenged prerogative of the State-Party, which alone was authorised to decide **who, what, why, how, where and when** in educational matters. Major choices in relation to educational reform took the form of sacrosanct resolutions from the central committees of the party in power and, as a result, became compulsory whatever their effects might be. Moreover, each establishment in the public education system was placed under the direct control of the regional and local organs of the single party. The latter kept an eye on the observance of ideology in schools and imposed on teachers absolute compliance with party rules. The main, if not the only function of the education system in its entirety was to relay

and reproduce the shock wave from above. Even though, over the years, the totalitarian system was subjected to various adjustments or doctrinal schisms, it never lost the excessive "dirigisme" and centralism which governed social life as a whole.

The collapse of totalitarian structures was not automatically followed by the building of new decentralised, participatory structures divested of ideology. It is understandable therefore why the Central and Eastern European experts were primarily interested in social changes in a democratic society and ways of stimulating them.

True, nobody could claim to have the key to all those problems, and the participants in the Brussels seminar were very careful not to entertain this illusion. They initiated a constructive exchange of views from which the following conclusion could be drawn: **any educational reform not accompanied by any large-scale social action is doomed to remain a fine intention without any follow-up**.

Some Eastern European experts undertook to evaluate the situation in their countries from this point of view, mentioning that there were already some ideas and initiatives which deserve to be encouraged. Special reference was made to the changes of attitude, and the emergence of **new protagonists** was noted:

a) **political protagonists** - members of parliament directly involved in the drawing up of school legislation as well as educational policies, ministers, advisers in human resources, etc.;

b) **direct participants in educational action** - teachers, parents, educational planners, pupils and students (direct consumers of educational services);

c) **educational experts** - researchers, authors of curricula and textbooks, legal experts, etc.

d) **potential protagonists** - those who, by virtue of being taxpayers and citizens, take a casual interest in educational questions;

e) **civil society** - professional associations, trade unions, non-governmental organisations, youth clubs, student movements, private institutions, etc.

The question of **evaluation** was also dealt with. It was deemed necessary to highlight the value of internal and external evaluation of the education system. Once again reference was made to the various protagonists' contributions to evaluation as well as to self-evaluation, and to the control of education quality. As far as current trends are concerned, it was pointed out that the present decentralisation and the redistribution of administrative powers in education made a process of evaluation essential.

V. CONCLUSIONS AND RECOMMENDATIONS

The results of the seminar demonstrate that it fully achieved its aims. The role of school legislation in a constitutional system was defined; and a series of acute problems in the European countries, whether Western, Central or Eastern were highlighted. Mechanisms permitting the implementation and evaluation of educational changes in a democratic society were identified.

As might have been expected, the discussions revealed the diversity of solutions and experiences, as well as the similarity of various problems, which serves to encourage rapprochement and dialogue. Once again it was noted that, as far as education is concerned, all the European countries are today confronted with new challenges which, to say the least, are not easy to meet. In this sphere, nobody can offer infallible recipes or permanently guaranteed solutions. As a result, the safest way is to make judicious use of intrinsic resources without prejudicing scope for dialogue and exchânge. Moreover, several participants remarked that the Brussels seminar had become a **pan-European forum** for discussion and analysis. It was considered desirable to suggest that the Council of Europe organise similar meetings in the future.

It is even possible that the most important results of the seminar were embodied in a series of recommendations likely to attract the attention of European decision-makers:

a) **The importance of legislative changes** should not be exaggerated: educational legislation is only a tool which is, of course, essential but cannot take the place of educational reform. An education law represents a codified intention; it is a static document which sets the formal framework and general thrust of educational measures while safeguarding the liberty of individuals and institutions and without excluding initiatives and innovations promoted by the social protagonists themselves.

b) Usually, within the constitutional system, legislation on education includes a wide variety of constitutional laws, outline laws and special laws. What should never be overlooked is the **consistency of educational legislation** with educational policy, legislation on other sectors of society and statutory measures aimed at education.

c) Whatever the effects of the basic political options on the administration of education may be (a "**laisser-faire**" policy conducive to competition between teaching establishments, a free choice of schools or, on the contrary, a **statist policy** corroborated by an egalitarian school outlook), the **State's role** in safeguarding and being responsible for educational systems will always be affirmed.

d) The contribution of **private enterprise** is very important in education. The functioning of private establishments, however, remains subject to two essential conditions: the approval of courses by a recognised public authority and the provision of financial support by the State.

e) In an increasingly multicultural and multiracial Europe, disrupted by inter-ethnic conflicts and large-scale immigration, the **question of minorities** is undoubtedly of the utmost importance. On the one hand, minority languages and cultures of origin

have to be preserved and, on the other hand, it is important to take appropriate measures to ensure civic socialisation, integration, coexistence and tolerance. Intercultural education and the inculcation of civic-mindedness with a European dimension in young people, areas in which the Council of Europe has unquestionable expertise, are priority aims to be included in educational reform projects.

f) Throughout Europe, democracies are proving vulnerable and ill-prepared to counteract the resurgence of extremism, intolerance, ethno-nationalism and aggression. Democracy is never a permanent state, a threshold of certainty beyond which social peace and civic co-existence are automatically guaranteed. On the contrary: it presupposes constant vigilance and regards education as **one of the most effective means of prevention.** The new democracies are the ones most exposed, given the persistence of certain anti-democratic structures and attitudes, combined, in some countries, with what could be termed "residual totalitarianism". It is clear that, confronted with these phenomena, the responsibility of education is commensurate with the problems to be solved.

g) In this **process of democratic construction and reconstruction**, the new member States of the Council of Europe are not left to their own devices. They form part of a vast system of pan-European co-operation and exchange, networks and agreements, projects and schemes.

h) Moreover, amid a prolonged crisis in international organisations, also complet unawares the economic recession and the rapid geo-political developments, it is more than ever necessary to **confer together and use resources in a more careful manner**. This recommendation is aimed at the main international organisations carrying out projects in the educational sphere: UNESCO, UNICEF, the Council of Europe, the European Union, the OECD, the World Bank and the UNDP. The participants recommended an analysis of the priorities and resources required for these bodies to respond better to the increasingly urgent needs of the countries in transition. It is desirable that new forms of co-operation be explored so that European realities and the problems resulting from them can be responded to more effectively.

Access to sources of information as well as collaboration with non-governmental organisations and of private bodies may prove useful in process of this exploration, in the same ways as partnership schemes, the setting up of common projects and the organisation of sub-regional activities appropriate to the specific conditions in the various member States of the Council of Europe.

APPENDIX I PROGRAMME OF THE SEMINAR

Monday 13 December 1993

09.00 Opening of the seminar

The Chairman of the Seminar, Mr Jean MAGY, Secretary General of the Ministry of Education, Research and Training in the French-speaking Community of Belgium

The Minister of Education of the French-speaking Community of Belgium, Mr Elio DI RUPO

The Representative of the Secretary General of Council of Europe, Mrs Maura ROLANDI RICCI, Head of the School and Out-of-School Education Section

The Representative of the Parliamentary Assembly, Mr Jan KOUCKY, Education and Culture Commission

The General Rapporteur, Mr César BIRZEA, Director of the Institute of Science and Education of Rumania

10.00 School legislation reforms in their social and political context by Mr Johannes LAMBERT, Minister of Education and Sport in the Baden-Wurtenberg region (Germany)

10.45 BREAK

11.00 Case studies - Panel 1 led by Mr Raymond RYBA, Manchester University
- Belgium
- Poland
- Rumania
- Russia

12.30 LUNCH

14.30 Case studies (continuation) - Panel 2 led by Mr Jean-Michel LECLERCQ, University of Paris VII
- Germany
- Bulgaria
- Spain
- Hungary

16.00 BREAK

16.15 3 working groups on specific themes:

1. Rapporteur: Mr Dominique BARTHELEMY (Ministry of Education, Research and Training)
2. Rapporteur: Mr Zoltan BATHORY (Institute of Educational Research in Hungary)
3. Rapporteur: Mr David TAYLOR (Inspector, Office for Standards in Education, UK)

18.00 End of the first day

Tuesday 14 December 1993

9.00 Follow up on working groups

10.30 BREAK

10.45 Presentation of reports of the working groups in plenary session

12.00 Setting up of reforms, their implementation and follow up by Mr Denis KALLEN, Coordinator for the Guide to Secondary Education in Europe

13.00 LUNCH

15.00 Working groups on setting up reforms:

1. Rapporteur Mr Arto SULONEN, Ministry of Education, Finland
2. Rapporteur Mrs Jelka ARH (Slovenia)

18.00 End of the second day

Wednesday 15 December 1993

9.00 Presentation of reports from the working groups in plenary session

10.45 BREAK

11.00 General report of the seminar by Mr César BIRZEA

12.30 Closing of the symposium by Mr Michel LEBRUN, Minister of Higher Education and international Relations of the French-speaking Community of Belgium

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